

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

No: 7:08-CR-72-1-F  
No. 7:12-CV-81-F

TERRELL DEMTRIUS McCULLUM, )  
Petitioner, )  
                        )  
                        )  
UNITED STATES OF AMERICA )  
Respondent. )

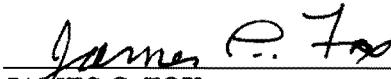
ORDER

The petitioner, Terrell Demtrius McCullum, through appointed counsel, has filed a motion pursuant to 28 U.S.C. § 2255 to vacate, correct or set aside his sentence in light of the *en banc* ruling in *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2011). Having conducted a review of the petition pursuant to Rule 4, Fed. R. Governing § 2255 Proceedings, the court concludes that dismissal of this action is not appropriate at this time.

Accordingly, the Government is DIRECTED to file an Answer or other appropriate response to McCullum's motion within **forty (40) days** of the date hereof.

SO ORDERED.

This, the 4<sup>th</sup> day of April, 2012.

  
\_\_\_\_\_  
JAMES C. FOX  
Senior United States District Judge